



June 1, 2023

BULLETIN NO. 1 (Revised)

Effective: July 1, 2023

TO: All Interested Parties

SUBJECT: Attorney Fees: ORS 656.262(11)(a); ORS 656.262(14)(a); ORS 656.308(2)(d)

This bulletin publishes the annual adjustment to attorney fees awarded under ORS 656.262(11)(a), ORS 656.262(14)(a), and ORS 656.308(2)(d). See OAR 438-015-0033; OAR 438-015-0038; OAR 438-015-0055(5); OAR 438-015-0110(3). This bulletin replaces Bulletin No. 1 dated July 1, 2022.

Summary:

ORS 656.262(11)(a) and ORS 656.308(2)(d) provide that the “maximum (absent extraordinary circumstances)” attorney fees awarded under those subsections are adjusted annually on July 1 by the same percentage increase, if any, as made to the state’s average weekly wage (SAWW) under ORS 656.211. In accordance with these statutes, OAR 438-015-0038, OAR 438-015-0055(5) and OAR 438-015-0110(3) provide that the maximum attorney fee (in the absence of extraordinary circumstances) is subject to an annual adjustment on July 1 by the same percentage increase as made to the SAWW defined in ORS 656.211, if any, as calculated by the Workers’ Compensation Division (on behalf of the Director).

In addition, on March 6, 2020, the Board adopted amendments to OAR 438-015-0033, which concerns the reasonable hourly rate for an attorney’s time spent during a personal or telephonic interview or deposition conducted under ORS 656.262(14)(a). The prescribed hourly rate (currently \$444) is subject to an annual adjustment on July 1 by the same percentage increase as made to the SAWW defined in ORS 656.211, if any, as calculated by the Workers’ Compensation Division (on behalf of the Director).

The previous maximum attorney fee awards (absent extraordinary circumstances) were \$5,813 for ORS 656.262(11)(a) and \$4,193 for ORS 656.308(2)(d). In addition, the reasonable hourly rate under ORS 656.262(14)(a) was \$444.

Effective July 1, 2023, the SAWW is \$1,295.86, a decrease of 2.217 percent as compared to the SAWW for the previous year (July 1, 2022 through June 30, 2023). See Workers’ Compensation Division’s Bulletin 111 (Revised) dated May 26, 2023.

However, in the event of a decrease in the SAWW, the Board does not adjust its attorney fee maximums. See e.g. WCB Bulletin No. 1 (Revised) (June 1, 2017).

Accordingly, effective July 1, 2023:

- An attorney fee awarded under ORS 656.262(11)(a) shall not exceed **\$5,813** absent a showing of extraordinary circumstances. OAR 438-015-0110(3).
- An attorney fee awarded under ORS 656.308(2)(d) shall not exceed **\$4,193** absent a showing of extraordinary circumstances. OAR 438-015-0038; OAR 438-015-0055(5).
- An attorney fee awarded under ORS 656.262(14)(a) shall be **\$444** per hour. OAR 438-015-0033.

These adjusted maximum fees apply to attorney fees awarded under ORS 656.262(11)(a) and ORS 656.308(2)(d) by orders issued on July 1, 2023 through June 30, 2024, and to a claimant's attorney's time spent during a personal or telephonic interview or deposition under ORS 656.262(14)(a) between July 1, 2023 and June 30, 2024.

A handwritten signature in cursive script that reads "Constance L. Wold". The signature is written in black ink and is positioned above a horizontal line.

Constance L. Wold, Board Chair
Workers' Compensation Board